

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER P2024-04**

May 31, 2024

**ENDEAVOR PARKING CORP.**

Case File Number 010859

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** A tenant at a condominium complex (the Complainant), made a complaint that the policies and practices of Endeavor Parking Corp. (the Organization), which was the Organization contracted by the condominium corporation to manage the parking lot at the condominium complex, did not comply with the *Personal Information Protection Act* (PIPA). In particular, the Complainant advised that he requested but did not receive a copy of the Organization's privacy policy. He further expressed concern that the Organization kept licence plate tracking data beyond what it reasonably required for legal and business purposes. Additionally, he asserted that it was not clear what information the Organization shared or disclosed to third parties, and when it shared or disclosed this information.

The Adjudicator found that the Organization had not complied with sections 5, 6, 13, or 35 of PIPA.

The Adjudicator ordered the Organization to designate one or more individuals to be responsible for ensuring the Organization complies with PIPA as required by section 5(3) of PIPA.

The Adjudicator ordered the Organization to develop and follow policies and practices that are reasonable for the Organization to meet all of its obligations under PIPA as required by section 6(1) of PIPA, and to provide written information about its policies and practices to the Complainant as required by section 6(3) of PIPA.

The Adjudicator ordered the Organization to comply with the requirements of section 13 of PIPA.

Finally, the Adjudicator ordered the Organization to review its retention practices and determine the purposes for which it retains personal information and the length of time it reasonably requires to keep the personal information it is collecting, for legal or business purposes, and to either destroy or render non-identifying, any personal information it no longer reasonably requires for legal or business purposes as required by section 35 of PIPA.

**Statutes Cited: AB:** *Personal Information Protection Act*, S.A. 2003, c. P-6.5, ss. 1, 5, 6, 13, 35, and 52; *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, s. 1.

**Investigation Reports Cited: AB:** Investigation Report F2008-IR-002.

**Orders Cited: AB: PIPA:** Order P2014-03; **FOIP:** Orders F2021-26 and F2021-39.

**Cases Cited: AB:** *Leon's Furniture Ltd. v. Alberta (Information and Privacy Commissioner)*, 2011 ABCA 94, and *Edmonton (City) v Alberta (Information and Privacy Commissioner)*, 2016 ABCA 110.

## I. BACKGROUND

[para 1] The Complainant is a tenant at a condominium complex. The Complainant advised that the strata council and management company for the condominium corporation contracted Endeavor Parking Corp. (the Organization) to manage the parking lot at the complex for the condominium corporation.

[para 2] The Complainant advised that the Organization requires residents (owners and tenants), and individuals visiting residents at the condominium complex, who use the parking lot at the complex, to enter certain information through a website called iStall.ca.

[para 3] The Complainant advised that he had made a number of written requests under section 6(3) of the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 (PIPA), to the Organization seeking information about the Organization's privacy policies and practices with respect to the personal information collected by the Organization through the iStall.ca website.

[para 4] The Complainant advised that the Organization did not respond to his first three requests.

[para 5] The Complainant advised that on October 7, 2018, he emailed the Organization a fourth time and asked the Organization for a copy of its privacy policy, or, failing that, for certain information regarding its privacy practices.

[para 6] As the Organization did not provide a submission in this inquiry, the Complainant's statement of facts is unopposed.

[para 7] On October 9, 2018, in response to the Complainant's fourth email, the Organization provided the following information to the Complainant (Organization's response in bold):

I would like to see a copy of your privacy policy. Failing that, specifically, I would like to know the following information:

a) For how long do you retain the records of people's licence plates and the locations where they parked? **Indefinitely**

b) Is there an automatic deletion process for purging old records of parking activities after a certain amount of time? **No**

c) Does your company do any analysis of trends or tendencies with the data that you collect and, if so, of what kinds and for what purposes? **Yes, we look at license [plate] numbers that are abusing the parking rules for the property.**

d) Do you ever share any of the data you've collected with any other companies, agencies, institutions or governments? If yes, under what circumstances do you share information, and what do you share? **Yes, we share the data with the Condo corp, property managers and any party they have assigned permission to view this data. (Security companies, tow companies, CPA, Police etc.)**

[para 8] On October 25, 2018, this Office received a complaint from the Complainant. The Complainant stated:

iStall.ca is a service operated by [Endeavor] Parking that electronically tracks automobile parking activities in Alberta using personal information and license plate numbers. I became aware of it because the strata council and management company of the condominium and rental complex where I am a tenant have recently contracted the company and implemented the service and are requiring owners and tenants to register with it and use it and ensure that all visitors also use it.

[para 9] The Complainant further stated:

I am concerned that the privacy policies and practices of a private sector company, the iStall.ca service run by [Endeavor] Parking, does not comply with the Alberta *Personal Information Protection Act*. I request that the OIPC investigate and confirm if the policies and practices are reasonable under the law or not.

[para 10] The Complainant identified the following specific concerns he had with the Organization's compliance with PIPA (paraphrased):

- 1) The Organization retains all of the information it collects through the iStall.ca website indefinitely, without any explanation as to why it needs to retain this information indefinitely;
- 2) The Organization does not inform individuals what circumstances it shares the information it collects with other parties, or what information it shares with other parties; and
- 3) The Organization does not provide written information about the policies and practices it has developed to meet its obligations under PIPA, to individuals upon

request. As a result, individuals are not aware of how the Organization is collecting, using and disclosing their personal information.

[para 11] The Commissioner authorized a Senior Information and Privacy Manager to investigate and attempt to settle the matter; however, the matter was not resolved and the Complainant requested that the Commissioner conduct an inquiry.

[para 12] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

## II. ISSUES

[para 13] The Notice of Inquiry, dated December 17, 2021 states the issue for this inquiry as follows:

1. Does the Organization collect “personal information” as that term is defined in section 1(1)(k) of the Act?
2. If the Organization collects personal information, has the Organization complied with section 5(3) (compliance with Act) of the Act?
3. If the Organization collects personal information, has the Organization complied with section 6(1) (develop and follow policies and practices) and section 6(3) (provide information about policies and practices) of the Act?
4. If the Organization collects personal information, does the Organization comply with section 13(1) (notification required for collection) of the Act?
5. If the Organization collects personal information, does the Organization comply with section 35 (retention and destruction of information) of the Act?

## III. DISCUSSION OF ISSUES

### ***Preliminary Comment: Authority to Investigate the Complaint and Conduct an Inquiry under PIPA***

[para 14] In this case, the Complainant advised that he did not enter any information on the iStall.ca website. Accordingly, there has been no collection by the Organization of the Complainant’s information (personal or otherwise). As a result, section 36(2)(e), which permits the Commissioner to investigate and attempt to resolve complaints made by an individual that an organization has collected, used or disclosed their personal information in contravention of PIPA, is not applicable.

[para 15] Sections 46(2) and 36(2)(f) of PIPA, however, allow an individual to initiate a complaint that an organization is not in compliance with PIPA, and authorize the Commissioner to investigate and attempt to resolve such a complaint.

[para 16] Section 49 of PIPA states that the Commissioner may authorize a person to investigate and attempt to mediate, and where possible, to mediate a settlement of any matter under review or relating to a complaint.

[para 17] Sections 50(1)(b) and (c) provide that if a matter under review or relating to a complaint is not settled pursuant to mediation under section 49, or is not resolved, the Commissioner may conduct an inquiry.

**1. Does the Organization collect “personal information” as that term is defined in section 1(1)(k) of the Act?**

[para 18] Section 1(1)(k) of PIPA defines “personal information” as follows:

*1(1) In this Act,*

...

*(k) “personal information” means about an identifiable individual,*

...

[para 19] The Complainant provided the following information about the information collected by the Organization:<sup>1</sup>

As the first step in a tenant or visitor vehicle-owner registering to use iStall, the iStall.ca website collects First Name, Last Name, and Email address (see screenshot below). And, as is clearly stated in the accompanying instructions, this information gets associated with related licence plate numbers. Signing in with Google is also possible (see second screenshot below), bringing with it associated information. This constitutes the collection of personal information. Furthermore, when a visitor enters their licence plate number, they must also enter a unique "Parking Code" (see third screenshot below), which is a number provided by the management company and Condominium Board that is associated with the specific suite and tenant/owner being visited -- thereby directly linking the personal information of the visitor with the personal information of the tenant/homeowner.

Because I have not wanted to start the registration process by disclosing my personal information, and have encouraged my visitors to avoid doing so as well . . .

[para 20] The Organization chose not to provide a submission in this inquiry despite being provided with opportunities to do so.

*Names and Email Addresses*

[para 21] Previous Orders of this Office have determined that an individual’s name and email address are personal information under section 1(1)(k) of PIPA (see, for example, Order P2014-03 at para. 15).

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<sup>1</sup> Complainant’s submission dated May 12, 2022.

## *Licence Plate Numbers*

[para 22] I note that since PIPA only applies to personal information, in the event I were to determine that the licence plate numbers in the context before me were *not* personal information under PIPA, then PIPA would not apply to the licence plate numbers, or to the Organization's collection, use or disclosure of the licence plate numbers.

[para 23] The question of whether licence plate numbers are personal information has come before this Office on a number of occasions, both under PIPA, and under the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25 (the FOIP Act).

[para 24] The FOIP Act deals with the collection, use and disclosure of information, including personal information, by public bodies. Section 1(n) of the FOIP Act defines "personal information" as:

*1 In this Act,*

*...*

*(n) "personal information" means recorded information about an identifiable individual, including:*

- (a) the individual's name, home or business address or home or business telephone number,*
- (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,*
- (iii) the individual's age, sex, marital status or family status,*
- (iv) an identifying number, symbol or other particular assigned to the individual,*
- (v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*
- (vi) information about the individual's health and health care history, including information about a physical or mental disability,*
- (vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,*
- (viii) anyone else's opinions about the individual, and*
- (ix) the individual's personal views or opinions, except if they are about someone else;*

[para 25] The list of what constitutes “personal information” under the FOIP Act is not exhaustive and other information, such as an individual’s email address, has also been found to be personal information under the FOIP Act (see, for example, Investigation Report F2008-IR-002 at paragraph 32 and Order F2021-39 at paragraph 16).

[para 26] Given the definition of “personal information” in PIPA, and the definition of “personal information” in the FOIP Act, a conclusion that information constitutes “personal information” under one of these statutes would, in the absence of a compelling reason to the contrary, support a conclusion that the information also constitutes “personal information” under the other statute.

[para 27] As a result, Investigation Reports and Orders issued by this Office, as well as Court decisions regarding whether licence plate numbers constitute personal information under the FOIP Act, are helpful in determining whether licence plate numbers constitute personal information under PIPA.

[para 28] In *Leon’s Furniture Ltd. v. Alberta (Information and Privacy Commissioner)* 2011 ABCA 94 (*Leon’s*), the Alberta Court of Appeal determined that licence plate numbers were not personal information under PIPA.

[para 29] This determination was based on the fact that in the particular circumstances in the *Leon’s* case, there was no information being collected by the organization that linked the licence plate number to an identifiable individual. At paragraph 49, the Court stated:

[49] The adjudicator’s conclusion that the driver’s licence number is “personal information” is reasonable, because it (like a social insurance number or a passport number) is uniquely related to an individual. With access to the proper database, the unique driver’s licence number can be used to identify a particular person: *Gordon v. Canada (Minister of Health)*, 2008 FC 258, 324 F.T.R. 94, 79 Admin. L.R. (4th) 258 at paras. 32-4. But a vehicle licence is a different thing. It is linked to a vehicle, not a person. The fact that the vehicle is owned by somebody does not make the licence plate number information about that individual. It is “about” the vehicle. The same reasoning would apply to vehicle information (serial or VIN) numbers of vehicles. Likewise a street address identifies a property, not a person, even though someone may well live in the property. The licence plate number may well be connected to a database that contains other personal information, but that is not determinative. The appellant had no access to that database, and did not insist that the customer provide access to it.

[para 30] Subsequently, in *Edmonton (City) v Alberta (Information and Privacy Commissioner)*, 2016 ABCA 110, the Alberta Court of Appeal acknowledged that the *Leon’s* decision can be read to accept that information about property can be personal information in certain contexts. At paragraph 25, the Court stated:

[25] In general terms, there is some universality to the conclusion in *Leon’s Furniture* that personal information has to be essentially “about a person”, and not “about an object”, even though most objects or properties have some relationship with persons. As the adjudicator recognized, this concept underlies the definitions in both the *FOIPP Act* and the *Personal Information Protection Act*. It was, however, reasonable for the adjudicator to observe that

the line between the two is imprecise. Where the information related to property, but also had a “personal dimension”, it might sometimes properly be characterized as “personal information”. In this case, the essence of the request was for complaints and opinions expressed about Ms. McCloskey. The adjudicator’s conclusion (at paras. 49-51) that this type of request was “personal”, relating directly as it did to the conduct of the citizen, was one that was available on the facts and the law.

[para 31] I understand the Alberta Court of Appeal to be saying that where a licence plate number is collected in isolation, with no other information that may link it to an identifiable individual, the licence plate number is not personal information under PIPA (or the FOIP Act); however, where there is additional information collected, or which appears in records that have been disclosed to an applicant, that links the licence plate number to an identifiable individual, then the licence plate number can constitute personal information under PIPA (or the FOIP Act).

[para 32] Such was the case in Investigation Report F2008-IR-002.

[para 33] In Investigation Report F2008-IR-002, Former Commissioner Work authorized a FOIP Portfolio Officer to investigate whether the collection of information by the Calgary Parking Authority under its ParkPlus program, complied with the FOIP Act.

[para 34] The FOIP Portfolio Officer considered whether the information collected by the Calgary Parking Authority for its ParkPlus program, which included the licence plate number of the vehicle using the parking spot and, where an individual had chosen to create a ParkPlus account, the individual’s name and email address, were personal information under the FOIP Act.

[para 35] The FOIP Portfolio Officer determined that the information provided to the City of Calgary by an individual to open a ParkPlus account, which included a licence plate number, was personal information under the FOIP Act.

[para 36] At paragraph 32, the FOIP Portfolio Officer stated:

[para 32] The personal information gathered for opening an account is also collected under the authority of section 33(c). The driver’s name, email address or phone number, plate number, credit card number (if applicable – a cheque may also be used), and, cell phone or land line number is information that directly relates to the parking program and is necessary for the Public Body to operate that activity: the name with email or phone number, to advise a driver that his/her account balance is diminishing; the plate number, to ensure the vehicle is identified as being allowed to park; the credit card, to collect payment for the CPA; and the phone number, for the CPA to confirm that an account exists when a driver calls in to trigger the beginning of a parking session and also for the system to advise the driver when the time is about to expire.

[para 37] Similarly, in Order F2021-26, the adjudicator determined that when considered in the context of information already provided to the applicant in that case, the licence plate number and description of the car, *were* personal information. At paragraphs 32 – 36, the adjudicator stated (my emphasis):

[para 32] Throughout the records, under section 17(1), the Public Body withheld the licence plate number and a description of the car driven by the Third Party at the time of the dog attack incident.

[para 33] Whether or not a license plate number is personal information under the Act was discussed in *Edmonton (City) v. Alberta (Information and Privacy Commissioner)*, 2015 ABQB 246 (Edmonton City); varied on other grounds in *Edmonton (City) v Alberta (Information and Privacy Commissioner)*, 2016 ABCA 110. After concluding that information about property could be personal information depending on context, Justice Renke stated at paras. 62 to 66,

The further problem, though, is this: What context? A very brief response can be extracted from the Order - when "there are circumstances that give a personal dimension to an individual's [property]-related activities:" para 36, quoting from Order F2010-011; see also para 48.

*Leon's Furniture* provided some examples. In that case, Justice Slatter found that the adjudicator's conclusion that a driver's licence number is "personal information" was reasonable. The numbers -- in their particular sequence - are abstract objects or abstract objects embodied in a physical card. They are "uniquely related to an individual:" at para 49. These numbers would fit as "personal information" under s. 1(n)(iv) of FOIPPA. The context has two elements. First, the context is a State-based system of assigning unique sequences of numbers to individuals for the purposes of licencing vehicle operators. The particular sequence of numbers on a person's driver's licence has its guarantee of unique linkage, its linkage to an identifiable individual, and its significance set by this context. Second, the information-holder has access to this context and the linkages it provides. Thus,

The adjudicator's conclusion that the driver's licence number is "personal information" is reasonable, because it (like a social insurance number or a passport number) is uniquely related to an individual. With access to the proper database, the unique driver's licence number can be used to identify a particular person:

[para 34] I find that when considered in the context of information already provided to the Applicant, the license plate number and description the car are personal information.

[para 35] The license plate number and description of the car do not appear on their own. They appear in the context of a complaint, made by the Applicant, that the Third Party does not properly control their dog in public spaces. The date, time, and place of the dog attack are recorded in the records, and are already provided to the Applicant. When combined with the date, time, and place of the dog attack, the license plate and description of the car serve to identify and, therefore, implicate the driver of the car as the person accused of being responsible for the dog attack. In this way, the license plate and description of the car are about an identifiable individual and, thus, are the Third Party's personal information.

[para 36] For the above reasons, all of the information withheld under section 17(1) about the Third Party is personal information. I now consider other information withheld under section 17(1) of the Act.

[para 38] In this case, based on the information provided by the Complainant in this inquiry, in order to use the parking lot at the condominium complex where the Complainant lives, the Organization requires an individual to provide it with *more* than just the licence plate number of the vehicle they are driving.

[para 39] According to the Complainant, the Organization requires an individual to enter their name, email address, licence plate number, and the unique Parking Code associated with the specific unit where the owner/tenant lives (if it is the owner/tenant who is using the parking lot), or that is associated with the owner/tenant that an individual is visiting, into the iStall.ca website.

[para 40] In other words, the Organization is not collecting the licence plate number in isolation, but in addition to other personal information.

[para 41] It appears that the Organization's purpose of requiring an individual to input their name and licence plate number into the iStall.ca website is to specifically link the licence plate number to an identifiable individual, who is either an owner or a tenant, or visiting an owner or a tenant in the condominium complex. Even if this is not the Organization's specific purpose for the collection of the information, it is the effect of the collection of the information.

[para 42] Taking into account the court decisions and Orders referred to above, given that the Organization collects an individual's name and email address, as well as the unique Parking Code associated with the specific unit where the owner/tenant lives, or where the individual is visiting, *in addition* to the licence plate number on the iStall.ca website, I find that the licence plate number is personal information about the individual in this circumstance.

[para 43] In this case, the licence plate number, along with an individual's name and email address, identifies the individual as the person who is using the parking lot, and either lives, or is visiting someone who lives, at the condominium unit associated with the Parking Code. This is personal information about the individual using the parking lot.

[para 44] In summary, in the circumstances before me, I find that the individual's name, email address, and licence plate number collected by the Organization is personal information about the individual who is using the parking lot at the condominium complex – either as an owner, a tenant, or an individual who is visiting an owner or a tenant.

**2. If the Organization collects personal information, has the Organization complied with section 5(3) (compliance with Act) of the Act?**

[para 45] Section 5(3) of PIPA states:

*5(3) An organization must designate one or more individuals to be responsible for ensuring that the organization complies with the Act.*

[para 46] As the Organization did not provide any submission in this inquiry, I am unable to find that the Organization has complied with section 5(3) of PIPA, and will order it to designate one or more individuals to be responsible for ensuring the Organization complies with PIPA.

**3. If the Organization collects personal information, has the Organization complied with section 6(1) (develop and follow policies and practices) and section 6(3) (provide information about policies and practices) of the Act?**

[para 47] Sections 6(1) and 6(3) of PIPA state:

*6(1) An organization must develop and follow policies and practices that are reasonable for the organization to meet its obligations under this Act.*

...

*(3) An organization must make written information about the policies and practices referred to in subsection (1) and (2) available on request.*

*Section 6(1) of PIPA*

[para 48] The Organization chose not to provide a submission in this inquiry. As a result, the Organization did not provide me with any policies or practices it has developed and is following in order to meet its obligations under PIPA, as required by section 6(1) of PIPA, or provide any explanation as to how any policies or practices it may have developed were reasonable for it to meet its obligations under PIPA.

[para 49] While the email response the Organization provided to the Complainant appears to indicate it has possibly considered and developed *some* privacy policies and practices to address its obligations under PIPA, the content of the email is insufficient for me to conclude that the Organization has developed and is following policies and practices that are reasonable for the Organization to meet *all* of its obligations under PIPA.

[para 50] Furthermore, in the absence of submissions by the Organization and given the brevity of the information the Organization provided to the Complainant in its email response, I am unable to determine that the policies and practices it mentions in the email are reasonable for it to meet its obligations under PIPA.

[para 51] Accordingly, I find the Organization to be in contravention of section 6(1) of PIPA. I will order the Organization to develop and follow policies and practices that are reasonable for the Organization to meet its obligations under PIPA.

[para 52] The policies and practices should address how the Organization meets *all* of its obligations under PIPA *including, but not limited to*, what personal information the Organization collects, the purposes for which the Organization collects the personal information, how the Organization uses the personal information, what personal information the Organization discloses and the circumstances in which the Organization discloses the personal information, how long the Organization retains personal information for, and the name or position name or title of a person who is able to answer on behalf of the Organization an individual's questions about the collection of personal information.

*Section 6(3) of PIPA*

[para 53] The Complainant advised that he made four requests to the Organization for a written copy of its privacy policy (or policies). He advised that the Organization did not provide him with a written copy of its privacy policy.

[para 54] In response to his fourth written request, the Organization provided very brief responses to certain questions the Complainant posed regarding its privacy policies and practices.

[para 55] While section 6(1) requires an organization to develop and follow policies and practices that are reasonable for an organization to meet its obligations under PIPA, it does not necessarily require formally setting down these policies and practices in writing. Nor does it require an organization to create a document entitled a “privacy policy” or to make such a document available upon request, although this is often what is done by organizations in order to meet their obligations under PIPA.

[para 56] If an organization does not set down the policies and practices it has developed to meet its obligations as required by section 6(1) of PIPA into a written “privacy policy”, it nonetheless is still required under section 6(3) to provide *written information* about the policies and practices to an individual upon their request.

[para 57] It is commonplace for an individual to request that an organization provide them with its “privacy policy” versus asking that an organization provide them with “written information about the organization’s policies and practices”.

[para 58] An organization cannot ignore an individual’s request simply because they have asked for a copy of an organization’s “privacy policy” instead of asking the organization to provide them with “written information about the organization’s privacy policies and practices”.

[para 59] It is clear what an individual is asking for, and an organization has an obligation under section 6(3) when it receives such a request to provide the individual with written information about *all* of its privacy policies and practices, be it in the form of a privacy policy, or otherwise.

[para 60] In this case, while the Organization did finally provide the Complainant with information about some of its privacy policies and practices by answering specific questions posed by the Complainant, it did not provide the Complainant with written information about *all* of its privacy policies and practices as the Complainant had requested.

[para 61] The fact that the Organization answered certain specific questions posed by the Complainant about its privacy policies and practices does not negate its obligation to respond to his general request for *all* of its privacy policies and practices.

[para 62] As a result, I find the Organization to be in contravention of section 6(3) of PIPA and will order the Organization to provide the Complainant with written information about *all* of the policies and practices it develops to meet its obligations under PIPA.

[para 63] If, after receiving the Organization's written information about its privacy policies and practices, the Complainant believes the Organization is collecting, using, and/or disclosing personal information in contravention of PIPA, he may submit a complaint to this Office and the Commissioner will determine whether to authorize an investigation.

**4. If the Organization collects personal information, does the Organization comply with section 13(1) (notification required for collection) of the Act?**

[para 64] Section 13(1) of PIPA states:

*13(1) Before or at the time of collecting personal information about an individual from the individual, an organization must notify that individual in writing and orally*

- (a) as to the purposes for which the information is collected, and*
- (b) the name or position name or title of a person who is able to answer on behalf of the organization the individual's questions about the collection.*

[para 65] The burden of establishing it has complied with PIPA is on the Organization. As noted above, the Organization did not provide any submission in this inquiry.

[para 66] As I have no information from the Organization to establish that the Organization provides notice to an individual that complies with section 13 of PIPA, I am unable to find that the Organization complies with section 13.

[para 67] Accordingly, I find the Organization is not in compliance with section 13 of PIPA and will order the Organization to comply with section 13 of PIPA.

**5. If the Organization collects personal information, does the Organization comply with section 35 (retention and destruction of information) of the Act?**

[para 68] Section 35 of PIPA states:

*35(1) An organization may retain personal information only for as long as the organization reasonably requires personal information for legal or business purposes.*

*(2) Within a reasonable period of time after an organization no longer reasonably requires personal information for legal or business purposes, the organization must:*

- (a) destroy the records containing the personal information, or*
- (b) render the personal information non-identifying so that it can no longer be used to identify an individual*

*(3) Subsection (1) applies notwithstanding any withdrawal or variation of the consent of the individual that the personal information is about under section 9.*

[para 69] In its response dated October 9, 2018 to the Complainant's email dated October 7, 2018, the Organization stated that it retained the information it collected (through the iStall.ca website) indefinitely, and that it had no automatic deletion process for purging old records of parking activities after a certain amount of time.

[para 70] The burden is on the Organization to establish that it is only retaining the personal information it is collecting for as long as it reasonably requires it for legal or business purposes.

[para 71] As the Organization did not provide any submissions in this inquiry to explain what legal or business purpose requires it to keep the personal information it collects indefinitely, I am unable to find that the Organization is complying with section 35 of PIPA.

[para 72] Accordingly, I will order the Organization to review its retention practices and determine the purposes for which it retains personal information and the length of time it reasonably requires to keep the personal information it is collecting, for legal or business purposes. I will order the Organization to either destroy or render non-identifying, any personal information it no longer reasonably requires for legal or business purposes.

#### **IV. ORDER**

[para 73] I make this Order under section 52 of the Act.

[para 74] I find that the Organization has not complied with section 5(3) of PIPA, and order the Organization to designate one or more individuals to be responsible for ensuring the Organization complies with PIPA.

[para 75] I find that the Organization is in contravention of section 6(1) and order the Organization to comply with section 6(1) by developing and following policies and practices that are reasonable for the Organization to meet all of its obligations under PIPA.

[para 76] I find that the Organization contravened section 6(3) of PIPA when it did not provide written information about all of its privacy policies and practices to the Complainant at his request. I order the Organization to provide written information about the policies and practices it develops under section 6(1) of PIPA to the Complainant.

[para 77] I find that the Organization is not in compliance with section 13 of PIPA and order the Organization to comply with the requirements of section 13 of PIPA.

[para 78] I find the Organization has not established what legal or business purposes require it to retain the personal information it collects through the iStall.ca website indefinitely. I order the Organization to review its retention practices and determine the purposes for which it retains personal information and the length of time it reasonably requires to keep the personal information it is collecting, for legal or business purposes. I order the Organization to either

destroy or render non-identifying, any personal information it no longer reasonably requires for legal or business purposes as required by section 35 of PIPA.

[para 79] I further order the Organization to notify me and the Complainant in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

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Carmen Mann  
Adjudicator